

AO 440 (Rev. 06/12) Summons in a Civil Action

**UNITED STATES DISTRICT COURT**  
for the  
**Eastern District of New York**

MICHAEL HENRY, on behalf of himself, individually, and on behalf of all others similarly-situated,	)	)	)	)	)	)	)
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<i>Plaintiff(s)</i>	)	)	)	)	)	)	)
v.				)	)	Civil Action No. 18-cv-06830 FB-RML	
WESTERN BEEF RETAIL, INC. d/b/a WESTERN BEEF, and CACTUS HOLDINGS, INC., and HORATIO WAGNER, individually, and TIMOTHY KELLAR, individually,				)	)	)	)
<hr/>				)	)	)	)
<i>Defendant(s)</i>	)	)	)	)	)	)	)

**SUMMONS IN A CIVIL ACTION**

To: (*Defendant's name and address*) Western Beef Retail, Inc. d/b/a Western Beef - 47-05 Metropolitan Avenue, Ridgewood, New York 11385;  
 Cactus Holdings, Inc. - 47-05 Metropolitan Avenue, Ridgewood, New York 11385;  
 Horatio Wagner, individually - 130-35 Merrick Boulevard, Springfield Gardens, New York 11434;  
 Timothy Kellar, individually - 47-05 Metropolitan Avenue, Ridgewood, New York 11385.

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Jeffrey R. Maguire, Esq.  
 Michael J. Borrelli, Esq.  
 Alexander T. Coleman, Esq.  
 Borrelli & Associates, P.L.L.C.  
 910 Franklin Avenue, Suite 200  
 Garden City, New York 11530

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

**DOUGLAS C. PALMER**  
*CLERK OF COURT*

s/Kimberly Davis

*Signature of Clerk or Deputy Clerk*

Date: 12/3/2018



Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

I personally served the summons on the individual at *(place)* \_\_\_\_\_  
on *(date)* \_\_\_\_\_; or

I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* \_\_\_\_\_, who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
on *(date)* \_\_\_\_\_; or

I returned the summons unexecuted because \_\_\_\_\_; or

Other *(specify)*: \_\_\_\_\_

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc: